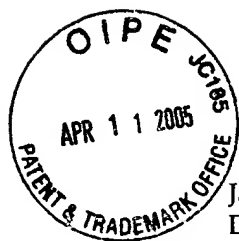


IPW, 2666



MYERS BIGEL SIBLEY & SAJOVEC, P.A.

PATENT LAWYERS

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April 8, 2005

Examiner Inder P. Mehra
Group Art Unit 2666
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Re: U.S. Patent Application No. 09/759,671; Filed January 12, 2001
St. John et al.; *Methods, Systems and Computer Program Products for Bandwidth
Allocation Based on Throughput Guarantees*

Dear Examiner Mehra:

Per your instructions of April 8, 2005 to Candi Riggs of our firm, we are returning the enclosed non-final Office Action of April 5, 2005, which was received in our office on April 7, 2005. A copy of the granted Decision on Request to Withdraw from Record also is enclosed indicating the correct addressee for this case.

Please give us a call if you have any questions.

Best regards.

Sincerely,

Timothy J. O'Sullivan

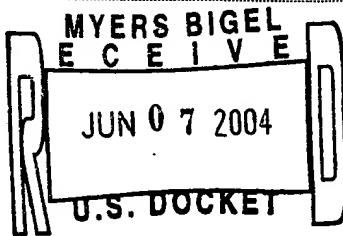
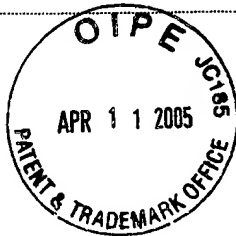
TJO/clr

Enclosures

cc: John Han – Ericsson (w/o refs.)
US Docketing (w/o enc.)



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Paper No. 5

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MS/EVW2-C-2
6300 LEGACY DRIVE
PLANO, TX 75024

MAIL

JUN - 4 2004

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re application of:

HARRISON

Application No. 09/759671 (8194.470)

Filed: January 12, 2001

For: **METHODS, SYSTEMS AND COMPUTER
PROGRAM PRODUCTS FOR BANDWIDTH
ALLOCATION BASED ON THROUGHPUT
GUARANTEES**

DECISION ON REQUEST TO
WITHDRAW FROM RECORD

This is a decision on the request to withdraw as attorney/agent of record filed on February 12, 2004.

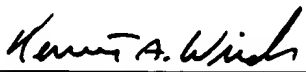
A grantable request to withdraw as attorney/agent of record must:

- (1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
- (2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
- (3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
- (4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED**.

All of the attorneys/agents of record listed in the Request are withdrawn.

All future correspondence will continue to be directed to the above address until such a time as a request for change of address is filed. A courtesy copy of this decision is being sent to petitioner at the address provided below.


KENNETH WIEDER
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4710

05-07-04 10:28 IN

cc: MYERS BIGEL SIBLEY & SAJOVEC PA
P O BOX 37428
RALEIGH, NC 27627

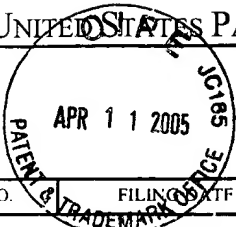


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,671	01/12/2001	James T. St. John	8194-470	2702

7590

04/05/2005

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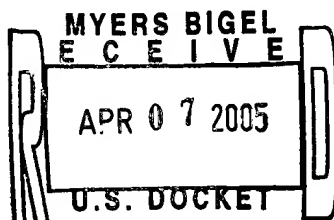
EXAMINER

MEHRA, INDER P

ART UNIT PAPER NUMBER

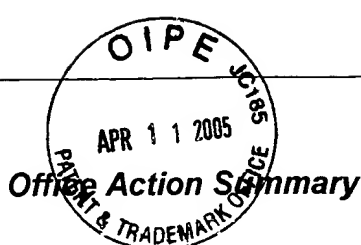
2666

DATE MAILED: 04/05/2005



Please find below and/or attached an Office communication concerning this application or proceeding.

04-07-05 10:15 IN



Application No. 09/759,671	Applicant(s) ST. JOHN ET AL.	
	Examiner Inder P Mehra	Art Unit 2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15 and 22-27 is/are rejected.
- 7) ☒ Claim(s) 14 and 16-21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/28/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to application filed 1/12/01.

Claim Objections

2. Claim 3 objected to because of the following informalities:

Claim 3 recites "requests" (second occurrence) in line 2. Change it to "the requests", because it is preceded by requests in line 1 (first occurrence).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-11 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the request" in line 8. There is insufficient antecedent basis for this limitation in the claim. There are two possible limitations precedent to this limitation, such as, "request queues" in line 4; and "'request for access" in line 6. It is not clear as to which one is an antecedent basis? Similar problem exists in claim 2 line 3.

Claim 2 line 3 recites the limitation "the low priority tier" " in line 3. There is no antecedent basis for this limitation in the claim. Similar problem exists in claim 3 line 3; claim 4 lines 3 and 5; claim 6 lines 2

Art Unit: 2666

Claim 5 recites the limitation "directing a request" in line 1. There is insufficient antecedent basis for this limitation in the claim. This step is recited in claim 1 line 6. This limitation should, therefore, have "the" in front of it. Similar problem exists with limitation "a request for access", which is preceded in claim 1 line 6. Further, limitation "the request" in claim 5 lines 6, 8-10 is preceded by two types of 'requests', such as, "a request into an initial queue" in lines 1-2 and "a request for access" in line 4. It is confusing as to which request it pertains to.

Note: Since there are more similar problems of "lack of antecedent basis", please, check the rest of the claims, and appropriate correction be made.

Information Disclosure Statement

5. The information disclosure statements filed 11/19/02 and 1/30/04 fail to comply with 37 CFR 1.98(a)(1), which requires the following: (1) a list of all patents, publications, applications, or other information submitted for consideration by the Office; (2) U.S. patents and U.S. patent application publications listed in a section separately from citations of other documents; (3) the application number of the application in which the information disclosure statement is being submitted on each page of the list; (4) a column that provides a blank space next to each document to be considered, for the examiner's initials; and (5) a heading that clearly indicates that the list is an information disclosure statement. The information disclosure statement has been placed in the application file, but the information referred to therein has not been considered.

Form -1449 listing the documents and also documents, where necessary, has not been

Art Unit: 2666

received with the information disclosure statements filed 11/19/02 and 1/30/04. Appropriate action be taken to provide these documents.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 6-7, 12, 15, 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Guerin et al** (US Patent No. 6,377,546), hereinafter, **Guerin** in view of **Lyles et al** (US Patent No. 5,917,822), hereinafter, **Lyles**.

For claims 1, 6-7, 12, 15, 24-27, **Guerin** discloses “a method of controlling access to a shared communication medium (a method for providing rate guarantees whereby a single link may be shared amongst multiple streams with link reservations in a manner that is fair, efficient and scalable, refer to col. 4 lines 45-50), the method comprising:

dividing a revolving priority queue (RPQ) into at least a low priority tier having a plurality of request queues and a high priority tier having a plurality of request queues (In the RPQ scheme, the ordering of packet transmissions, which the sorted list provides, is now provided by keeping a fixed number of queues and rotating the priority values of each queue every T time units, refer to col.3 line 67 through col. 4 line 4” ; and

directing a request for access to the shared communication medium into an initial queue in the high priority tier if throughput for an end user associated with the request fails to

Art Unit: 2666

meet a guaranteed throughput (Accordingly, the aforementioned objectives are achieved through the use of a *novel buffer management scheme* that enables rate (B/W) guarantees to be provided to individual flows (or sets of flows) without requiring a sophisticated scheduler that can *arbitrate between packets waiting for transmission*, refer to col. 4 lines 58-63).

Guerin does not disclose explicitly the following limitations which are disclosed by Lyles, as follows:

“directing a request for access to the shared communication medium into an initial queue in the high priority tier if throughput for an end user associated with the request fails to meet a guaranteed throughput”, **as recited by claims 6 and 7 also**, (refer to “Further, the inventive scheme supports multiple quality of service (QoS) classes via mechanisms which give highest priority to the service class with the most stringent QoS requirements”, refer to col. 6 lines 56-59;

allocating bandwidth based on an order in which the information indicating bandwidth requirements for a connection is read from the RPQ, **as recited by claims 12, 25 and 27**, refer to col. 6 lines 44-60.

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of directing a request for access to the shared communication medium into an initial queue in the high priority tier if throughput for an end user associated with the request fails to meet a guaranteed throughput. The capability can be implemented by connecting the scheduler to the queues. The motivation for using scheduler in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

Art Unit: 2666

8. Claims 9, 13 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Guerin et al**, hereinafter, Guerin, and **Lyles et al**, hereinafter, Lyles, as above, and further, in view of **Gubbi et al** (US Patent No. 6,865,609), hereinafter, Gubbi.

For claim 13, Guerin and Lyles disclose all the limitations of subject matter with the exception of the following limitation, which has been disclosed by Gubbi, as follows:

“wherein the information indicating bandwidth requirements comprises requests for bandwidth (The server 12 maintains a dynamic table, which includes forward and backward bandwidth requirements of all on-line clients 16. This information may be used when determining whether a new connection may be granted to a new client. For example, if a new client 16 requires more than the available bandwidth in either direction, server 12 may reject the connection request, refer to col. 4 lines 25-35).

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of the information indicating bandwidth requirements comprises requests for bandwidth. The motivation for using scheduler in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

For claims 9 and 22, Guerin discloses all the limitations of the subject matter of the claim with the exception of the following limitations, which are disclosed by Lyles, as follows:

“ wherein the shared communication medium is a cable television system and wherein requests for bandwidth comprise requests for access to an upstream channel of the cable

Art Unit: 2666

television system”, **as recited by claims 9 and 22**; (The term "hybrid fiber-coax (HFC) network" means a network comprising a combination of optic fiber links and coaxial fiber links, e.g., the network 100 shown in FIG. 1 (see also FIG. 2). One aspect of a HFC network important to the present description is its characterization as a shared-media access network, refer to col. 8 lines 58-64).

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of using the shared communication medium is a cable television system and wherein requests for bandwidth comprise requests for access to an upstream channel of the cable television system. The capability can be implemented by connecting the bandwidth allocator to hybrid fiber-coax (HFC) network . The motivation for using scheduler in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

9. Claims 10 and 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Guerin et al**, hereinafter, **Guerin**, and **Lyles et al**, hereinafter, **Lyles** in view of **Dravida et al** (US Patent No. 2004/0019876), hereinafter, **Dravida**

For claim 10, **Guerin** and **Lyles** disclose all the limitations of subject matter with the exception of the following limitation, which has been disclosed by **Dravida**, as follows:

“wherein the cable television system is a Data Over Cable (DOCSIS) compatible system”, **as recited by claims 10 and 23**, (The HFC plant already offers cable television and, in some cases, broadband Internet access via DOCSIS, refer to paragraph 0022).

Art Unit: 2666

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of wherein the cable television system is a Data Over Cable (DOCSIS) compatible system. The motivation for using cable television system in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

10. Claims 2 and 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Guerin et al**, hereinafter, **Guerin** in view of **Lyles et al**, hereinafter, **Lyles**, as above, further in view of **Nattkemper et al** (US Patent No. 6,754,206), hereinafter, '206.

For claims 2 and 5, **Guerin** and **Lyles** disclose all the limitations of subject matter with the exception of the following limitation, which has been disclosed by '206, as follows:

receiving a request for access to the shared communication medium associated with a connection having a guaranteed throughput; determining if the connection associated with the request has met its guaranteed throughput, **as recited by claim 5** (provide a method for providing rate guarantees whereby a single link may be shared amongst multiple streams with link reservations in a manner that is fair, efficient); and

“directing the request for access to the shared communication medium into an initial queue in the low priority tier if throughput for an end user associated with the requests meets or exceeds the guaranteed throughput”, **as recited by claims 2 and 5**, (The controlling software drives these discard engines to fairly discard the active low priority queues in the system. The discards should be proportional to the rate that each virtual circuit is provisioned for. If,

Art Unit: 2666

however, some VCs have guaranteed minimum throughput, then the VC accounting hardware should prevent discards for these VCs until after their minimum throughput is enqueued, refer to col. 49 lines 5-12).

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of directing the request for access to the shared communication medium into an initial queue in the low priority tier if throughput for an end user associated with the requests meets or exceeds the guaranteed throughput. The capability can be implemented by connecting the bandwidth allocator to CMTS . The motivation for using scheduler in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

11. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Guerin et al**, hereinafter, **Guerin**, **Lyles et al**, hereinafter, **Lyles**, and **Nattkemper et al** , hereinafter, '206, as above, further in view of **Malmlof** (US Patent No. 6,594,241).

For claim 8, Guerin, Lyles and '206 disclose all the limitations of subject matter with the exception of the following limitation, which has been disclosed by Malmlof, as follows:

“placing requests which do not have an associated guaranteed throughput into a request queue in the low priority tier” (low priority would include users with small demands in throughput and delays (e.g., an e-mail user), refer to col. 2 lines 40-42).

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of placing requests which do not have an associated guaranteed throughput into a request queue in the low priority tier. The capability can be implemented by

Art Unit: 2666

connecting the bandwidth allocator to CMTS . The motivation for using scheduler in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

12. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Guerin et al**, hereinafter, **Guerin**; **Lyles et al**, hereinafter, **Lyles**; **Nattkemper et al**, hereinafter, '206; as above further in view of **Gilbertson et al** (US Patent No. 6,260,099), hereinafter, '099.

For claim 3, **Guerin**, **Lyles** and '206 disclose all the limitations of subject matter with the exception of the following limitation, which has been disclosed by '099, as follows:

“reading requests for access from the RPQ, where requests are read from the high priority tier before requests are read from the low priority tier of queues; and allocating bandwidth based on the order in which requests are read from the RPQ”, **as recited by claim 3**, (The LRSRP technique allows inactive requesters assigned to higher priorities than a granted requester to maintain their current relative priority rank, while allowing all requesters assigned to lower priorities than the granted requester to collectively increment in priority ranking, refer to col. 17 lines 13-21).

It would have been obvious to the person of ordinary skill in the art at the time the invention to use the capability of reading requests for access from the RPQ, where requests are read from the high priority tier before requests are read from the low priority tier of queues; and allocating bandwidth based on the order in which requests are read from the RPQ. The capability can be implemented by connecting the bandwidth allocator to CMTS . The

Art Unit: 2666

motivation for using scheduler in combination with queues being that it provides a need to allocate bandwidth, fairly, and dynamically, in a shared-media packet switched network.

Allowable Subject Matter

13. Claims 14 and 16-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 4 and 11 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Prior Art of Record

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- **Mergard et al** (US Patent No. 6,415,348) discloses a microcontroller providing a flexible architecture to readily support both general embedded applications communications applications.

Conclusion

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

Art Unit: 2666

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Inder Pal Mehra

Inder P Mehra

Examiner

Art Unit 2666

4/1/05





In Place of PTO-504 Form				U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE		Complete if Known	
INFORMATION DISCLOSURE STATEMENTS BY APPLICANT (2-2001) sheets as necessary				Application Number		09/759,671	
				Filing Date		01/12/2001	
				Applicant(s)		St John, et al	
				Art Unit		2741 2666	
				Examiner Name			
SHEET		1		OF		1	
				Attorney Docket Number		P12541US1	

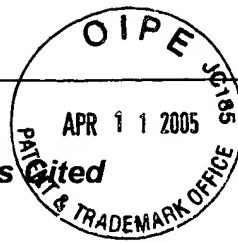
[illegible][illegible]

OTHER PRIOR ART		
Examiner's Initials	Cite No.	Include name of the author (in CAPITAL LETTERS), title of the article, title of the item, date, page(s), volume- issue number(s), publisher, city/country where published
SM	AA	<p>WREGE D E ET AL: "A near-optimal packet scheduler for QoS networks" INFOCOM '97. SIXTEENTH ANNUAL JOINT CONFERENCE OF THE IEEE COMPUTER AND COMMUNICATIONS SOCIETIES. DRIVING THE INFORMATION REVOLUTION., PROCEEDINGS IEEE KOBE, JAPAN 7-11 APRIL 1997, LOS ALAMITOS, CA, USA, IEEE COMPUT. SOC, US, 7 April 1997 (1997-04-07), pages 576-583, XP010252044 ISBN: 0-8186-7780-5</p> <p>*page 577, right-hand column, line 24-line 27</p> <p>*page 578, left-hand column, line 29-right-hand column, line 8</p> <p>*figure 1</p>

Examiner Signature	Inder Pal Mehra	Date Considered	3	21	05
-----------------------	-----------------	--------------------	---	----	----

EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include a copy of this form with next communication to applicant.

BEST AVAILABLE COPY

**Notice of References Cited**

Application/Control No.

09/759,671

Applicant(s)/Patent Under
Reexamination
ST. JOHN ET AL.

Examiner

Inder P Mehra

Art Unit

2666

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,377,546	04-2002	Guerin et al.	370/230
	B	US-5,917,822	06-1999	Lyles et al.	370/395.4
	C	US-6,754,206	06-2004	Nattkemper et al.	370/369
	D	US-6,594,241	07-2003	Malmlof, Jim	370/329
	E	US-6,260,099	07-2001	Gilbertson et al.	710/240
	F	US-6,724,721	04-2004	Cheriton, David R.	370/229
	G	US-6,865,609	03-2005	Gubbi et al.	709/230
	H	US-6,415,348	07-2002	Mergard et al.	710/305
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	Dravida et al, (US Patent Application n0. 2004/0019876 A1, dated: January 29,2004
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.